



# **FINDING OF SUITABILITY TO TRANSFER (FOST)**

## **HISTORIC DISTRICT TRANSFER PARCEL**

### **FORT SHERIDAN, ILLINOIS**

#### **OCTOBER 1997**

## **1.0 PURPOSE AND FINDING**

The purpose of this FOST is to document a decision made pursuant to Department of Defense (DoD) FOST guidance that property is suitable to transfer.

Based on a review of the *Fort Sheridan Historic District Transfer Parcel Environmental Baseline Survey (EBS)*, I have determined that the Fort Sheridan Transfer Parcel described herein is suitable for transfer for its proposed reuse. The proposed future use of the property is residential, recreational, light commercial.

## **2.0 PROPERTY DESCRIPTION**

The majority of the parcel described herein is located within the Historic District at Fort Sheridan. There is also a small area to the west not considered part of the Historic District which includes Buildings 99, 99X, 677, 678, and 679 and another area to the west of Buildings 205 and 180 extending west to the reservation boundary. A total of one hundred twenty-three (123) buildings are located within the parcel boundaries. A site map showing the general location of the property and buildings being made available for transfer is provided as Attachment A.

## **3.0 NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE**

Review of the Fort Sheridan Joint Planning Committee (JPC) *Fort Sheridan Concept Plan*, Johnson, Johnson, and Roy, Inc. September, 1994, indicates that the proposed reuse is similar to the analysis of environmental impacts associated with the low intensity reuse alternative documented in the *Environmental Assessment (EA) for the Disposal and Reuse of Fort Sheridan*, September, 1993. This EA was prepared in 1993. Its accuracy was reviewed before it was published in 1997. Based on the environmental impact analyses documented in the EA, it has been determined, and documented in the Finding of No Significant Impact (FNSI), that implementation of the proposed action would not have a significant individual or cumulative adverse impact on the quality of the natural or human environment.

## **4.0 ENVIRONMENTAL BASELINE SURVEY FINDINGS**

A site-specific EBS was prepared to document the environmental condition of property on the transfer parcel. The majority of the transfer parcel was historically used for residential and administrative purposes and is designated Environmental Condition Category (ECC) 1 (areas where no release or disposal of hazardous substances or petroleum products has occurred). Four sites were investigated during the Remedial Investigation (RI) and have been designated Category 1. Seven (7) underground storage tank (UST) removal sites have been designated Category 2 (areas where only release or disposal of petroleum products has occurred). Two sites have been designated Category 3 (areas where release, disposal, and/or migration of hazardous substances

has occurred, but in quantities that do not require a removal or remedial action). The site of a former fire-damaged PCB contaminated transformer receives an ECC classification of Category 4 (areas where release, disposal, and/or migration of hazardous substances has occurred, and all remedial actions necessary to protect human health and the environment have been taken). All other buildings or areas located on the Historic District Transfer Parcel are considered Category 1.

#### **4.1 Hazardous Substances and Petroleum Products**

Three study areas in the transfer parcel (Building 29A, Scott Loop Drain, and McArthur Loop Drain) were sampled during the Surplus Property Remedial Investigation (RI). Two additional study areas in the transfer parcel (Building 2 and 707) were investigated during the RI but no sampling was performed. These investigations indicate that no release of hazardous substances has occurred at four of these study areas. At one of these study areas, Scott Loop Drain, analytical results from a sediment sample indicate low levels of organics including polynuclear aromatic hydrocarbons (PAHs) above background, and chlorofluorocarbons (CFCs). These hazardous substances were detected at levels which do not require a remedial or removal action. Hazardous substances were stored in sufficient quantities at three (3) of these study areas to require notification under CERCLA Section 120 (h)(1). Petroleum products storage sites include seven (7) former USTs. Attachment B includes information, where applicable, as to the substance-stored/hazardous substance(s) of concern at each of these sites, the quantity stored, dates of storage, regulatory designations (Chemical Abstracts Services Registry Number (CASRN), RCRA Hazardous Waste Number, etc.), the current status of the site, and the Environmental Condition Category (ECC) classification. The ECC classification system was developed by the Department of Defense (DoD) for categorizing parcels to effectively describe the environmental condition of the installation property and to provide relevant information regarding the past storage, release, or disposal of hazardous substances. For more information on ECC classification, see Section 5.0 of the *Fort Sheridan Historic District Transfer Parcel EBS*. A CERCLA Notice indicating the type and quantity of hazardous substances and notice of the time such storage, release, or disposal took place is included as a disclosure statement located in Attachment C.

#### **4.2 Asbestos**

Of the one hundred twenty-three (123) buildings located within the transfer parcel, asbestos surveys indicate that one hundred one (101) buildings tested positive for the presence of asbestos containing material (ACM). Of these 101, thirty-one (31) buildings contain damaged friable asbestos, ACM at eighteen (18) buildings was not damaged friable at time of survey, and all known damaged friable asbestos was abated at the remaining fifty-two (52) buildings. Complete asbestos survey and abatement information listed by building is provided in the *Fort Sheridan Historic District Transfer Parcel EBS*. In accordance with the DoD policy on asbestos, buildings containing damaged, friable asbestos will either be demolished by the transferee or be required to be remediated by the transferee prior to use. The deed will contain the appropriate use restriction. A Notice of the Presence of Asbestos is included as a disclosure statement located in Attachment C.

#### **4.3 Lead-Based Paint**

According to the reuse plan, fifty-eight (58) buildings have a proposed residential reuse. Analysis of sampling results revealed lead-based paint to be above regulatory levels on various interior and exterior components throughout each building. All of these buildings were constructed prior to 1960 and require abatement of LBP hazards prior to residential occupation. Abatement of interior and

exterior hazards at eight (8) of these buildings is completed. Abatement of only interior exterior hazards has been completed at two (2) buildings. Buildings with exterior soil samples indicating lead levels between 400 - 1000 ppm were remediated by covering bare soils with mulch or topsoil and grass seed, as appropriate. Buildings with bare soil areas exceeding 1000 ppm were remediated by excavating 3 - 9 inches of soil, replacing with soil with lead levels less than 200 ppm, and mulching or reseeded, as appropriate. Excavation of soils and/or bare soil restoration was conducted from October 1996 - May, 1997. Complete lead-based paint survey and abatement information listed by building is provided in the *Fort Sheridan Historic District Transfer Parcel EBS*. A Notice of the Presence of Lead-Based Paint is included as a disclosure statement located in Attachment C.

#### **4.4 Radon**

Fort Sheridan conducted a post-wide radon survey of Priority 1 structures in 1990. Priority 1 structures include day care centers, hospitals, schools, and living units. Four buildings in the transfer parcel (28, 92A, 92B, and 93B) exceeded the USEPA action level of 4.0 pCi/L during the 90 day testing period. These buildings were re-tested and only Building 28 was found to have radon levels (8.0 pCi/L) above the USEPA action limit. In accordance with *DoD Policy On Radon At Base Realignment And Closure Properties, 31 October 1994*, DoD policy is to ensure that any available and relevant radon assessment data pertaining to BRAC property being transferred should be included in property transfer documents.

#### **4.5 Polychlorinated Biphenyls**

Under Toxic Substances Control Act (TSCA) authority, the USEPA has determined that PCBs detected in transformers at concentrations greater than 50 ppm are considered PCB-contaminated. PCB-contaminated transformers may continue to be used as long as they remain in good condition with no leaks and spills and meet other requirements in accordance with 40 CFR 761. Transformers still in use are inspected on a quarterly basis by representatives of the Fort Sheridan BRAC Office. Transformers containing PCB concentrations in excess of 50 ppm are listed below:

- 1) PM111: Pad mounted transformer formerly located immediately south of and servicing Building 48. Fluid sampling revealed total PCB concentrations of 262 PPM. Transformer reported leaking during quarterly inspection. Transformer decommissioned and disposed off-site in March, 1997. Soil samples taken around transformer indicate PCBs in concentrations less than 1 ppm, the residential Tier 1 cleanup objective according to the Illinois' Tiered Approach to Complete Objectives (TACO) guidance. A wipe sample indicates no detection above the stated detection limit of 1ug/100cm<sup>2</sup>.
- 2) PM122: Pad mounted transformer formerly located west of Building 29 servicing Buildings 29, 206, 207, and 297. Fluid sampling reveals total PCB concentrations of 282 PPM. Transformer was removed on April 17, 1996, to facilitate a UST removal at Building 29 (See site assessment for Building 29 located in Appendix B) and disposed off-site. At the time of removal, the transformer was in good condition with no signs of leaks or spills.
- 3) PM425: Pad mounted transformer formerly located south of and servicing Building 50. Fluid sampling reveals total PCB concentrations of 316 ppm. The transformer was damaged in a fire and removed in February, 1997. The fire caused the transformer to spill approximately 50 gallons of PCB contaminated oil. Contaminated

soils were excavated and the site cleaned to Illinois TACO Tier I cleanup objectives. For more information, see *Report On PCB Contaminated Transformer PM-425 Fire, February 21, 1997, Fort Sheridan, Illinois. Diversified Technologies Corporation, April, 1997.*

4) PM427: Pad mounted transformer located south of Building 50 servicing Buildings 50, 79, and 106. Fluid sampling reveals total PCB concentrations of 311 PPM. Transformer is in good condition with no signs of leaks or spills.

Transformer PM427 is the only remaining PCB contaminated transformer located within the Historic District Transfer Parcel. A Notice of the Presence of PCB Contaminated Transformers is included as a disclosure statement located in Attachment C.

#### **4.6 Radiological Materials**

Radioactive materials, including watch dials, compasses, and a chemical agent detector, were stored in Building 82. A total of three buildings located within the EBS parcel underwent radiological surveys. In addition to Building 82, Building 48-G was surveyed because it served as the base of operations and equipment storage during the radiological surveys and, Building 140, because a room in the building was found to have radiation stickers on the door. A review of the survey results indicates that there were no radiological health hazards identified as a result of the use and storage of radioactive commodities in the buildings that were surveyed and recommends that the buildings be released for unrestricted use.

#### **4.7 Ordnance and Explosives**

An Archives Search Report was generated for the entire Fort Sheridan Installation in March 1996 which details findings of an extensive literature review of all historical ordnance related activities at Fort Sheridan. No buildings or areas within the EBS parcel were identified for investigation by the Archives Search Report.

### **5.0 ACCESS**

The Army shall have access to the property in any case in which a response action or corrective action is found necessary after the date of property transfer, or such access is necessary to carry out a response action or corrective action on adjacent property.

Two groundwater monitoring wells were installed on the transfer parcel to determine the quality of background groundwater. The Army shall have access to these background wells to conduct routine sampling and/or to remove these wells.

### **6.0 ANALYSIS OF LAND USE**

The proposed reuse of the Historic District Transfer Parcel is detailed in the Fort Sheridan Joint Planning Committee (JPC) *Fort Sheridan Concept Plan. Johnson, Johnson, and Roy, Inc. September, 1994.* The Fort Sheridan JPC, formerly consisting of the Cities of Highland Park, Highwood, and Lake Forest and the County of Lake, approved the Concept Plan in September of 1994. The Army reviewed the plan and provided recommendations on February 3, 1995.

The proposed reuse of the subject transfer parcel is primarily residential. The buildings west of Lyster Road are designated as light commercial. The Parade Ground and Lake Michigan Bluff and Beachfront area are designated for recreational use.

## 7.0 DEED RESTRICTIONS

Environmental restrictions, located in Attachment C, will be included in the deed as part of this transfer. Restrictions include, but are not limited to, notices for the presence of hazardous substances, lead-based paint, asbestos, and PCB contaminated transformers.

## 8.0 REGULATORY COMMENT

The U.S. Environmental Protection Agency and Illinois Environmental Protection Agency were notified at the initiation of the EBS and FOST. Regulatory comments received during the development of these documents were reviewed and either incorporated or addressed in responses to comments. There are three unresolved regulatory agency comments as discussed in Attachment D. The nature of these comments is such that they do not affect the finding of suitability to transfer.

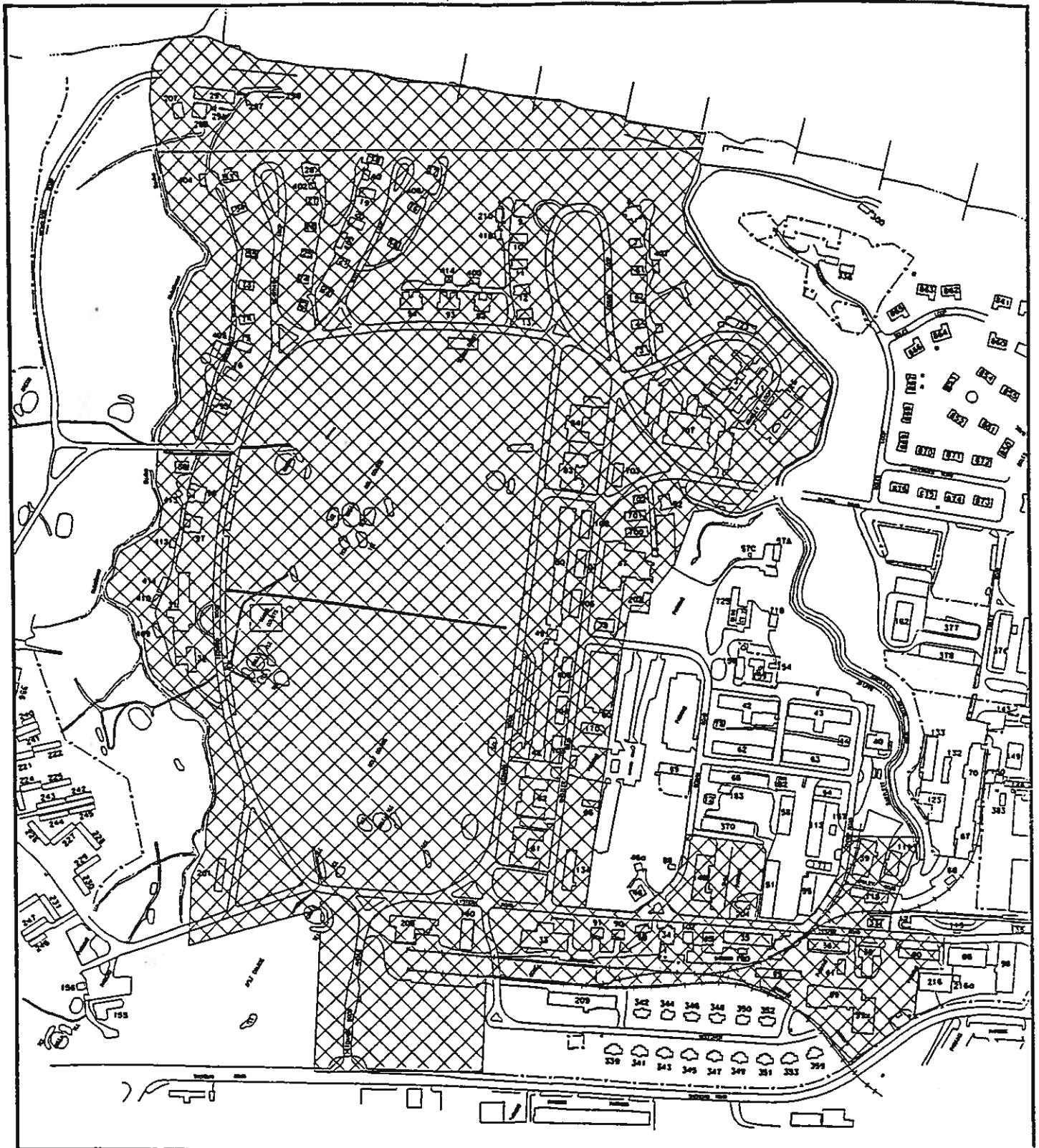
## 9.0 FINDING OF SUITABILITY TO TRANSFER

On the basis of the above and results from the Historic District Transfer EBS and its reference documents, I have concluded that the requirements of CERCLA Section 120(h) have been met; and subject to the foregoing restrictions and rights, the property has been found suitable to transfer for its proposed reuse. In accordance with CERCLA Section 120(h)(1), hazardous substance notice is required due to hazardous substances were stored for one year or more, or known to have been released, treated, or disposed on the proposed property transfer parcel. The Army further warrants under CERCLA Section 120(h)(3) that: (1) all remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken before the date of such transfer, and (2) any additional remedial action found to be necessary after the date of such transfer (that resulted from past Army activities) shall be conducted by the Army. The deed for this transaction will contain the covenants required by CERCLA 120 (h)(3).

Patricia P. Hickerson 16 Oct 97

Patricia P. Hickerson    Date  
Major General, U.S. Army  
Deputy Chief of Staff for  
Personnel and Installation  
Management

# Attachment A



## LEGEND



Historic District  
Transfer Parcel

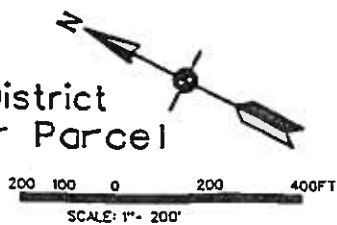


Figure #1

## Historic District Transfer Parcel

Fort Sheridan Site Specific  
Environmental Baseline Survey

# Attachment B

## Substance Stored, Quantity, Dates of Storage, Environmental Condition of Property Category

Site or Area	1	2	3	4	5	6	7	Comments	Substance Stored/Hazardous Substance(s)	Quantity Stored	Dates of Storage	Environmental Condition Category	
Building 2	x							Medical Lab Investigated During RI	Small Amounts of Reagents and Chemicals	unknown	1993 - 1997		
Building 29A	x							Sampled During RI Sampling	PCB Containing Oil (CASRN: 1336363 ; RCRA: n.a.)	unknown	1940s - 1996		
Building 707	x							Dental Clinic Investigated During RI	Mercury (CASRN: 7439976 ; RCRA: D009)	unknown	1967 - 1996		
Scott Loop Drain			x					Sampled During RI Sampling	Surface Water Runoff Drainage Ways	n/a	n/a		
McArthur Loop Drain			x					Sampled During RI Sampling	Surface Water Runoff Drainage Ways	n/a	n/a		
Former PCB Contaminated Transformer (PM 425) South of Building 50 (See note #3)				x				Damaged During Fire, February 21, 1997, Transformer and Remaining Oil Removed and Disposed Off-Site. Cleanup completed February 27, 1997.	PCB Containing Oil (CASRN: 1336363 ; RCRA: n.a.)	Estimated Release of 50 gallons of oil containing 316 ppm PCBs. Approximate storage of 110 - 140 gallons oil. Fire Occurred February 28, 1997. Cleanup completed February 28, 1997.			
Former PCB Contaminated Transformer (PM 111) South of Building 48 (see note #3)					x			Transformer Reported Leaking. Transformer Removed and Disposed Off Site. Samples below regulatory limits.	PCB Containing Oil (CASRN: 1336363 ; RCRA: n.a.)	Approximately 110 - 140 gallons oil with 262 ppm PCBs Stored / Unknown Release	Unknown-March, 1997		
Former UST at Bldg 2		x						Closure Report Submitted to IEPA	#2 Heating Oil	1,000 gallons	unknown		
Former USTs at Bldg 29		x						Closure Report Submitted to IEPA	Gasoline	600 gallons X 2	unknown		
Former UST at Bldg 29		x						Closure Report Submitted to IEPA	Diesel	1,000 gallons	unknown		
Former UST at Bldg 31		x						Closure Report Submitted to IEPA	#2 Heating Oil	2,000 gallons	unknown		
Former UST at Bldg 60		x						Closure Report Submitted to IEPA	Diesel	6,000 gallons	unknown		
Former UST at Bldg 205		x						Closure Report Submitted to IEPA	#2 Heating Oil	10,000 gallons	unknown		
Notes:													
1. The information contained in this notice is required under the authority of regulations promulgated under section 120(h) of the Comprehensive Environmental Response, Liability and Compensation Act (CERCLA or "Superfund") 42 U.S.C. section 9620(h). This section is intended to comply with reporting requirements under 40 CFR 373 in indicating the type and quantity of hazardous substances and notice of the time at which such storage, release, or disposal took place, to the extent that such information is available on the basis of a complete search of agency files.													
2. 40 CFR 373.2 stipulates that notice is required when substances stored over one year have been stored in quantities greater than or equal to 1000 kilograms or the hazardous substances CERCLA reportable quantity, whichever is greater. Hazardous substances listed under 40 CFR 261.30 as acutely hazardous wastes are subject to the notice requirement when stored in quantities greater than or equal to 1 kilogram. Notice is also required when releases have occurred in quantities greater than or equal to the CERCLA reportable quantity. After a complete search of available records concerning the property discussed in this FOST, quantities of certain hazardous substances are unknown and can be assumed to be greater than or equal to the applicable reportable quantity. Applicable names of hazardous substances have been provided, when known, within the table along with any known regulatory designation (CASRN, regulatory synonym, RCRA hazardous waste number, etc.).													
3. For more information on PCB contaminated transformers, see Section 13.4 of EBS.													

Key:

RI = Remedial Investigation

CASRN = Chemical Abstracts Services Registry Number

RCRA = Resource Conservation and Recovery Act

## **ATTACHMENT C**

### **ENVIRONMENTAL RESTRICTIONS AND DISCLOSURE STATEMENTS**

#### **A. ENVIRONMENTAL RESTRICTIONS**

1. The Army shall have access to the property in any case in which a response action or corrective action is found to be necessary after date of property transfer, or such access is necessary to carry out a response action or corrective action on adjacent property.
2. The Army and its representatives shall, for all time, have access to the property for the purpose of sampling and/or removing groundwater wells.
3. The transferee or successors or assigns shall comply with all applicable federal, state, and local laws, regulations, and standards that are or may become applicable to transferees activities on the transferred premises.

#### **B. DISCLOSURE STATEMENTS**

##### **1. NOTICE OF THE PRESENCE OF ASBESTOS:**

The Authority is hereby informed and does acknowledge that friable and non-friable asbestos or asbestos-containing materials ("ACM") have been found on the Property, as described in the final base-wide EBS. The Army represents that it does not have knowledge of any ACM on the property other than ACM identified in the EBS. Except as provided below, the ACM on the Property does not currently pose a threat to human health or the environment. Except as provided below, all friable asbestos that posed a risk to human health has either been removed or encapsulated.

Buildings or facilities listed in Table 5 of the EBS have been determined to contain friable ACM that may pose a threat to human health. Detailed information is contained in the EBS. The Army has agreed to convey said buildings to the Authority, prior to remediation of asbestos hazards, in reliance upon the Authority's express representation and promise that the Authority will, prior to use or occupancy of said buildings, either: (i) demolish said buildings, disposing of ACM in accordance with applicable laws and regulations or (ii) fully renovate said buildings to the extent that all friable asbestos is properly removed and disposed of, in accordance with applicable laws and regulations, in the course of said renovation. With respect to the friable asbestos in the buildings listed in Table 5, the Authority specifically agrees to undertake any and all remediation that may be required under CERCLA 120 (h) (3) or any other law or regulation. The Authority acknowledges that the consideration for the conveyance of the Property was negotiated based upon the Authority's agreement to the provisions contained in this section.

The Authority covenants and agrees that its use and occupancy of the Property will be in compliance with all applicable laws relating to asbestos; and that the Army assumes no liability for any future remediation of asbestos or damages for personal injury, illness, disability, or death, to the Authority, its successors or assigns, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the Property described in the MOA, whether the Authority, its successors or assigns have properly warned or failed to properly to warn the individual (s) injured. The Authority agrees to be responsible for any future remediation of asbestos found to be necessary on the Property. The Authority assumes no liability for damages for personal injury, illness, disability, or death arising from any exposure or failure to comply with any legal requirements applicable to asbestos on any portion of the Property arising prior to the Army's conveyance of such portion of the Property to the Authority pursuant to the MOA.



Unprotected or unregulated exposures to asbestos in product manufacturing, shipyard, building construction workplaces have been associated with asbestos-related diseases. Both Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA) regulate asbestos because of the potential hazards associated with exposure to airborne asbestos fibers. Both OSHA and EPA have determined that such exposure increases the risk of asbestos-related diseases, which include certain cancers and which can result in disability or death.

The Authority acknowledges that it has inspected the property as to its asbestos content and condition and any hazardous or environmental conditions relating thereto prior to accepting the responsibilities imposed upon the Authority under this section. The failure of the Authority to inspect, or to be fully informed as to the condition of all or any portion of the property offered, will not constitute grounds for any claim or demand against the United States, or any adjustment under the MOA.

The Authority further agrees to indemnify and hold harmless the Army, its officers, agents and employees, from and against all suits, claims, demands or actions, liabilities, judgments, costs and attorneys' fees arising out of, or in any manner predicated upon, future asbestos remediation, personal injury, death or property damage resulting from, related to, caused by or arising out of the possession and/or use of any portion of the Property containing asbestos and arising from the presence of asbestos after the conveyance of such portion of the Property to the Authority pursuant to the MOA. This section and the obligations of the Authority hereunder shall survive the expiration or termination of the MOA and conveyance of the Property to the Authority. The Authority's obligation hereunder shall apply whenever the United States incurs costs or liabilities for actions giving rise to liability under this section.

## **2. NOTICE OF THE PRESENCE OF LEAD-BASED PAINT:**

The Authority is hereby informed and does acknowledge that all buildings on the Property, which were constructed or rehabilitated prior to 1978, are presumed to contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Every purchaser of any interest in Residential Real Property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase. "Residential Real Property" means any housing constructed prior to 1978, except housing for the elderly (households reserved for and composed of one or more persons 62 years of age or more at the time of initial occupancy) or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.

Available information concerning known lead-based paint and/or lead-based paint hazards, the location of lead-based paint and/or lead-based paint hazards, and the condition of painted surfaces is contained in the Environmental Baseline Survey, which has been provided to the Authority. Additionally, the following reports pertaining to lead-based paint and/or lead-based paint hazards have been provided to the Authority:

"Final Report for the Fort Sheridan Army Base, Final Report Soil Abatement for Fort Sheridan, Illinois,"  
ENTACT, Feb 11, 1997.

"Final Report for the Fort Sheridan Army Base, Soil Abatement,"  
ENTACT, May 29, 1997.

"Asbestos and Lead-Based Paint Hazard Abatement,"  
U.S. Army Corps of Engineers, January, 1997.

"Lead-Based Paint Testing and Risk Assessment,"  
RECON Environmental Corp., September, 1995.

"Report of Lead-Based Paint Testing Historical Buildings."  
U.S. Army Corps of Engineers, May 1997.

"Summary Report Lead-Based Paint Hazard Abatement Historical Buildings,"  
U.S. Army Corps of Engineers, June, 1997.

All purchasers must also receive the federally-approved pamphlet on lead poisoning prevention. The Authority hereby acknowledges receipt of all of the information described in this subparagraph.

The Authority acknowledges that it has received the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards prior to execution of the MOA.

The Authority covenants and agrees that it shall not permit the occupancy or use of any buildings or structures on the Property as Residential Real Property without complying with this section and all applicable federal, state, and local laws and regulations pertaining to lead-based paint and/or lead-based paint hazards. Prior to permitting the occupancy of Residential Real Property, if required by law or regulation, the Authority, at its sole expense, will: (1) inspect for the presence of lead-based paint and or lead-based paint hazards; (2) abate and eliminate lead-based paint hazards in accordance with all applicable laws and regulations; and (3) comply with all applicable notice and disclosure requirements under applicable federal and state law. The Authority agrees to be responsible for all remediation of lead-based paint or lead-based paint hazards found to be necessary on the Property after conveyance to the Authority.

The Army assumes no liability for remediation or damages for personal injury, illness, disability, or death, to the Authority, its successors or assigns, sublessees or to any other person, including members of the general public, arising from or incident to lead-based paint located on the Property. The Authority further agrees to indemnify and hold harmless the Army, its officers, agents and employees, from and against all suits, claims, demands or actions, liabilities, judgments, costs and attorneys' fees arising out of, or in any manner predicated upon, remediation, personal injury, death or property damage resulting from, related to, caused by or arising out of lead-based paint on the Property. The Authority's obligation to indemnify and hold the Army harmless hereunder shall apply whenever the United States of America incurs costs or liabilities for actions giving rise to liability under this section. However, the Authority assumes no liability for (i) remediation or damages for personal injury, illness, disability, or death suffered or incurred by the Army, its officers, agents and employees or by any other person, including members of the general public, arising from any exposure of any person to lead-based paint on any portion of the Property occurring prior to the date of conveyance of such portion of the Property to the Authority or (ii) any failure of the Army to comply with any legal requirements applicable to lead-based paint conditions on any portion of the Property prior to the Army's conveyance of such portion of the Property to the Authority pursuant to the MOA.

### **3. NOTICE OF THE PRESENCE OF RADON:**

Available radon assessment data pertaining to the Property is in the EBS. According to said radon assessment data, Building 28 on the Property may contain unhealthy levels of radon. The Grantor shall not be responsible for remediation of radon on the Property. The Grantee and its successors and assigns shall not permit the occupancy of Building 28 without first abating and eliminating the radon hazard in accordance with applicable regulatory standards and guidelines. This covenant shall run with the land. The Grantee shall ensure that any assignee, transferee, affiliate, successor, or foreclosure purchaser of the Property shall be bound by the provisions hereof. The Grantee shall indemnify and hold the Grantor harmless from all claims, liability, loss, cost, or damage arising out of occupation of Building 28 without first abating the radon hazard in accordance with applicable standards and guidelines.

#### **4. CERCLA NOTICE**

The information contained in this notice is required under the authority of regulations promulgated under section 120(h) of the Comprehensive Environmental Response, Liability and Compensation Act (CERCLA or "Superfund") 42 U.S.C. section 9620(h). The Army has made a complete search of its available records concerning the property subject in this FOST. Those records indicate that hazardous substances have been stored for one year or more, released, or disposed of on the Transfer Premises as described in Attachment B. The Grantee should consult the Fort Sheridan Historic District Transfer Parcel EBS for more details.

#### **5. NOTICE OF THE PRESENCE OF PCB CONTAMINATED TRANSFORMERS:**

The transferee is hereby informed and does acknowledge the presence of PCB contaminated transformers on the transferred premises, as described in the Historic District Transfer Parcel EBS. The PCB contaminated transformers are in good condition and do not currently pose a threat to human health or the environment. The transferee covenants and agrees that its use of the said transformers on the transferred property will be in compliance with all applicable laws and regulations relating to PCBs. The Army assumes no liability for future remediation of PCBs related to spills, leaks, or other such releases from said PCB contaminated transformers or damages from personal injury, illness, disability, or death, to the transferee, its successor or assigns, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with PCBs in said transformers on the transferred premises described in this deed, whether the transferee, its successors or assigns, have properly warned or failed to properly warn the individual(s) injured.

## ATTACHMENT D

### Unresolved Regulatory Agency Comments Fort Sheridan Historic District Transfer Parcel Environmental Baseline Survey (EBS) and Finding of Suitability to Transfer (FOST)

#### 1. Commenter: U.S. Environmental Protection Agency (USEPA)

Comment: USEPA cannot provide a conditional concurrence of this FOST until the [lead based paint (LBP) contaminated] soil abatement project is complete and have reviewed the final report.

Army response: LBP contaminated soil abatement is being completed in accordance with (IAV) Title X of the Housing and Community Development Act of 1992, and not under CERCLA. Title X does not require lead based paint hazard abatement be conducted prior to property transfer. However, at this site, the LBP contaminated soil abatement will be completed prior to property transfer.

Discussion: The regulation of lead based paint contaminated soil under CERCLA is an on-going unresolved issue between the Army and USEPA. As no formal national policy has yet been established by either agency with respect to the regulation of lead based paint contaminated soil, this issue is unresolved. Both under CERCLA and under Title X, lead based paint hazards are required to be abated prior to residential reuse. At this site, lead based paint contaminated soil abatement will be completed around future residential buildings prior to transfer. Therefore, this comment does not affect the finding of suitability to transfer.

#### 2. Commenter: USEPA

Comment: USEPA believes there is insufficient information to conclude that chlorofluorocarbons (CFCs) detected in a residential area (Scott Loop) are likely related to residential activities.

Army response: The Scott Loop area is exclusively residential and has been throughout the history of the fort. Therefore, the presence of CFCs in this area is *likely* related to residential activities.

Discussion: This is a difference of opinion. The levels of CFCs are extremely low and do not pose an unacceptable risk to human health and to the environment. Therefore, the source of CFCs at this site is inconsequential, and the comment does not affect the finding of suitability to transfer.

#### 3. Commenter: Illinois Environmental Protection Agency (IEPA)

Comment: Include DDT, a tentatively identified compound (TIC), into the risk calculations or provide more justification why it was misidentified as a TIC. Even if it is included in the risk calculations, there are still no unacceptable risks at the site.

Army response: To include this TIC into the risk calculations is inconsistent with USEPA's Risk Assessment Guidance for Superfund (RAGS). Language from RAGs was added into the EBS.

Discussion: This is a technical issue on which we do not agree. While including the TIC would not affect the overall risk calculation, the Army believes it would be inconsistent with risk

assessment guidance. Because inclusion of DDT does not affect the overall risk calculation, the comment does not affect the finding of suitability to transfer.